

**ASSEMBLY BILL**

**No. 859**

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**Introduced by Assembly Member Jones**

February 26, 2009

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An act to amend Sections 44062.1 and 44094 of, and to add Section 44012.7 to, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 859, as introduced, Jones. Smog check: annual inspection: repair assistance program.

(1) Existing law establishes a motor vehicle inspection and maintenance (smog check) program, developed, implemented, and administered by the Department of Consumer Affairs. The smog check program provides for the inspection of a motor vehicle, among other circumstances, upon its registration, upon transfer of ownership, and for vehicles registered in certain areas of the state, biennially. Some motor vehicles, including any motor vehicle manufactured prior to the 1976 model year, are exempt from biennial inspection. The department is required to charge a fee to a smog check station for each motor vehicle inspection, as provided. Violations of the smog check requirements constitute a crime.

Existing law creates the High Polluter Repair or Removal Account, and makes available, upon appropriation by the Legislature, all money in the account to the State Air Resources Board and the department to establish and implement a program for the repair or replacement of high polluting motor vehicles.

This bill would require the department to incorporate the annual inspection of motor vehicles that are models which are 15 years old or greater into the motor vehicle inspection and maintenance program by

January 1, 2010, and would require funds generated through additional inspection fees to be deposited into the High Polluter Repair or Removal Account.

By expanding the definition of an existing crime, this bill would impose a state-mandated local program.

The bill would exempt all vehicles not subject to biennial inspection, and vehicles or classes of vehicles determined by the department to be likely to pass the annual inspection.

(2) Existing law provides for a repair assistance program available to an individual whose maximum income level is 185% of the federal poverty level and who is the owner of a motor vehicle that has failed a smog check inspection or received a notice to correct, or an individual who has failed a smog check inspection and is directed to a test-only facility. Existing law provides that the department may increase its contribution toward the repair of a motor vehicle in excess of \$450, if the department determines that the expenditure is cost effective.

This bill would increase this amount to \$750. The bill would make the repair assistance program only available to low-income individuals, and would change the maximum income level to 300% of the federal poverty level. The bill would make other conforming changes, and delete obsolete provisions of law.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 44012.7 is added to the Health and Safety
- 2 Code, to read:
- 3 44012.7. (a) The department shall incorporate the annual
- 4 inspection of motor vehicles that are models which are 15 years
- 5 old or greater into the motor vehicle inspection and maintenance
- 6 program by January 1, 2010.
- 7 (b) All funds generated through additional inspection fees shall
- 8 be deposited into the High Polluter Repair or Removal Account
- 9 created by Section 44091.

1 (c) The department shall develop a vehicle emissions profile  
2 that identifies vehicles or classes of vehicles that are likely to pass  
3 annual inspection. The department shall revise this profile annually.

4 (d) Both of the following are exempt from the annual inspection:

5 (1) All vehicles not subject to biennial inspection, including  
6 vehicles exempted by Section 44011.

7 (2) All vehicles or classes of vehicles determined by the  
8 department to be likely to pass the annual inspection pursuant to  
9 subdivision (c).

10 SEC. 2. Section 44062.1 of the Health and Safety Code is  
11 amended to read:

12 44062.1. (a) The department shall offer a repair assistance  
13 program through entities authorized to perform referee functions.

14 ~~(b) (1) The repair assistance program shall be available to the~~  
15 ~~following eligible individuals:~~

16 ~~(A) An individual~~

17 ~~(b) (1) The repair assistance program shall be available to an~~  
18 ~~individual who has a maximum income level of 200 percent of the~~  
19 ~~federal poverty level, as published quarterly in the Federal Register~~  
20 ~~by the Department of Health and Human Services is a low-income~~  
21 ~~motor vehicle owner, and who is either or both of the following:~~

22 ~~(i)~~

23 ~~(A) The owner of a motor vehicle that has failed a smog check~~  
24 ~~inspection.~~

25 ~~(ii)~~

26 ~~(B) The owner of a motor vehicle who was issued a notice to~~  
27 ~~correct for an alleged violation of Section 27153 or 27153.5 of the~~  
28 ~~Vehicle Code involving that vehicle, if the vehicle subject to that~~  
29 ~~notice has failed a smog check inspection subsequent to receiving~~  
30 ~~the notice.~~

31 ~~On and after January 1, 2009, the maximum income level~~  
32 ~~prescribed for this subparagraph shall be set at 185 percent of the~~  
33 ~~federal poverty level, as published quarterly in the Federal Register~~  
34 ~~by the United States Department of Health and Human Services.~~

35 ~~(B) An individual who is the owner of a motor vehicle that has~~  
36 ~~failed a smog check inspection and is directed to a test-only facility~~  
37 ~~pursuant to Section 44010.5 or 44014.7. If the department~~  
38 ~~determines that applications for repair assistance exceed the amount~~  
39 ~~of funds available, to the maximum extent possible, applications~~

1 ~~from low-income motor vehicle owners shall be given priority~~  
2 ~~over other applications.~~

3 (2) The department shall offer repair cost assistance, funded by  
4 the High Polluter Repair or Removal Account in the Vehicle  
5 Inspection and Repair Fund created pursuant to subdivision (a) of  
6 Section 44091, to individuals based on the cost-effectiveness and  
7 air quality benefit of the needed repair. Repair assistance may  
8 include retesting costs and the costs of repairs to remedy the  
9 violation of Section 27153 or 27153.5 of the Vehicle Code.

10 (3) An applicant for repair assistance shall file an application  
11 on a form prescribed by the department, and shall certify under  
12 penalty of perjury that the applicant meets the applicable eligibility  
13 standards.

14 (4) Verification of income eligibility shall be based on at least  
15 one form of documentation, as determined by the department,  
16 including, but not limited to, (A) an income tax return, (B) an  
17 employment warrant, or (C) a form of public assistance  
18 verification.

19 (c) The repair assistance program shall be funded by the High  
20 Polluter Repair or Removal Account.

21 (d) Repairs to motor vehicles that fail smog check inspections  
22 and are subsidized by the state through the program shall be  
23 performed at a repair station licensed and certified pursuant to  
24 Sections 44014 and 44014.2. ~~Repair~~ *Repairs* shall be based upon  
25 a preapproved list of repairs for cost-effective emission reductions  
26 or repairs to remedy a violation of Section 27153 or 27153.5 of  
27 the Vehicle Code.

28 (e) The qualified low-income motor vehicle owner receiving  
29 repair assistance pursuant to this section shall contribute a  
30 copayment, as determined by the department as specified in Section  
31 44017.1, either in cash, or in emissions-related partial repairs as  
32 verified by a test-only station pursuant to paragraph (2) of  
33 subdivision (c) of Section 44015, or a combination thereof. ~~For~~  
34 ~~an owner of a motor vehicle described in subparagraph (B) of~~  
35 ~~paragraph (1) of subdivision (b), the department shall impose a~~  
36 ~~copayment at least equivalent to the amount imposed on a~~  
37 ~~low-income individual receiving assistance under this section.~~ If  
38 the repair cost exceeds the applicable repair cost limit, the  
39 department shall inform a motor vehicle owner of all options for  
40 compliance at the time of testing and repair.

(f) The department may increase its contribution toward the repair of a motor vehicle under this program in excess of the amount authorized for the repair of a ~~high-polluter~~ *high polluter* pursuant to paragraph (1) of subdivision (b) of Section 44094, if the department determines that the expenditure is ~~cost-effective~~ *cost effective*. In determining the cost effectiveness of the expenditure, the department shall consider a failure of the visible smoke test, pursuant to Section 44012.1, and the costs associated with repairing a smoking vehicle.

~~(g) Notwithstanding subparagraph (A) of paragraph (1) of subdivision (b), the department may increase the maximum income level of a low-income motor vehicle owner under this program from the amount specified in this section, not to exceed 225 percent of the federal poverty level, if the department determines that the increase is capable of being supported within existing budget allocations.~~

~~(h)~~

(g) The department shall collect data from the program to provide information on how to improve the program. Data collection shall include all of the following:

(1) The number of motor vehicle owners that are eligible for repair assistance.

(2) The number of eligible motor vehicle owners that use repair assistance funds.

(3) The potential for fraud.

(4) The average repair bills.

(5) The types of repairs being done.

(6) The amount of partial repairs done prior to receipt of repair assistance.

(7) The emissions benefits of providing repair assistance.

~~(i)~~

(h) For purposes of this section, “low-income motor vehicle owner” means a person whose income does not exceed ~~200~~ *300* percent of the federal poverty level, *as published quarterly in the Federal Register by the Department of Health and Human Services*.

SEC. 3. Section 44094 of the Health and Safety Code is amended to read:

44094. (a) Participation in the high polluter repair or removal program specified in this article and Article 10 (commencing with Section 44100) shall be voluntary and shall be available to the

1 owners of high polluters that are registered in an area that is subject  
2 to an inspection and maintenance program, have been registered  
3 for at least 24 months in the district where the credits are to be  
4 applied and, are presently operational, and meet other criteria, as  
5 determined by the department.

6 (b) The program shall provide for both of the following:

7 (1) As to the repair of a high polluter, payment to the owner of  
8 up to 80 percent of the total cost of repair, as determined by the  
9 department, but the payment shall not exceed ~~four~~ *seven* hundred  
10 fifty dollars ~~(\$450)~~ (\$750).

11 (2) As to the removal of a high polluter, the program shall be  
12 subject to Article 10 (commencing with Section 44100).

13 (c) Except as provided in Section 44062.3, the department may  
14 specify the amount of money that may be paid to an owner of a  
15 high-polluting motor vehicle who voluntarily retires the vehicle.  
16 The amount paid by the department shall be based on the  
17 cost-effectiveness and the air quality benefit of retiring the vehicle,  
18 as determined by the department.

19 (d) The department may authorize participation in the program  
20 based on a reasonable estimate of the future revenues that will be  
21 available to the program.

22 SEC. 4. No reimbursement is required by this act pursuant to  
23 Section 6 of Article XIII B of the California Constitution because  
24 the only costs that may be incurred by a local agency or school  
25 district will be incurred because this act creates a new crime or  
26 infraction, eliminates a crime or infraction, or changes the penalty  
27 for a crime or infraction, within the meaning of Section 17556 of  
28 the Government Code, or changes the definition of a crime within  
29 the meaning of Section 6 of Article XIII B of the California  
30 Constitution.